# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/589,417 | 11/07/2006 | David Mail | 7251/94662 | 8225 |

24628          7590          11/14/2008
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|---|
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| ART UNIT | PAPER NUMBER |
|---|---|
| 2442 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/14/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on <u>22 September 2008</u>.

2a)☐ This action is **FINAL**.       2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) <u>1-57</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-57</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>15 August 2006</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>9/22/2008, 08/18/2008, 10/27/2006</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Construction*

1.     Claims 29-53 contain the phrase means or step for. It has been construed as

covering the corresponding structure, material, or acts described in the specification and

equivalents thereof.

### *Claim Rejections - 35 USC § 102*

2.     The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.     Claims 1, 3-12, 29, 31-40 are rejected under 35 U.S.C. 102(b) as being

anticipated by Romrell (U.S. 2001/0002900).

4.     With respect to claims 1, 29, Romrell teaches; A method for distributing

multimedia content, the method comprising:

a) storing an item of a multimedia content; ("Server-side cache memory may be used to

store both original and transcoded versions of content" Romrell paragraph [0019])

b) firstly transcoding said content for playback on a first multimedia device; ("parser 22

may selectively invoke one of transcode service providers 24 based upon satisfaction of

a predetermined selection criterion." Romrell paragraph [0045])

c) generating a content ID of said firstly transcoded content; ("local proxy 48 may

perform, for example a CRC or other checksum-type process" Romrell paragraph

[0056], alternatively "CreateEntry(URL, &entry, . . .);" Romrell paragraph [0021])

d) storing said content ID of said firstly transcoded content in association with said

stored content; ("Remote proxy 36 could also return the header retrieved from sever

device 8 . . . this header could also include a checksum for the data stream" Romrell

paragraph [0055], alternatively "CreateEntry(URL, &entry, . . .);" Romrell paragraph

[0021])

e) accessing said stored content using said content ID of said firstly transcoded content;

and ("local proxy may perform, a CRC or other checksum-type process on the portion of

the data object it received. It may then transmit the result to the remote proxy . . .

Remote proxy may then re-retrieve the data object" Romrell paragraph [0056],

alternatively "GetEntry(URL, &Entry);" Romrell paragraph [0022])

f) secondly transcoding said stored content for playback on a second multimedia device.

("parser 22 may selectively invoke one of transcode service providers 24 based upon

satisfaction of a predetermined selection criterion." Romrell paragraph [0045])

5.      Regarding claims 3, 31, Romrell teaches; wherein said storing step comprises

storing said item of multimedia content together with an original content identifier (ID)

identifying said content. ("Remote proxy 36 could also return the header retrieved from

the server device . . . this header could also include a checksum" Romrell paragraph

[0055])

6.      Regarding claims 4, 32, Romrell teaches; wherein said storing step comprises

storing said item of multimedia content together with an original content identifier (ID)

that uniquely identifies said content. ("CreateEntry(URL, &Entry, . . .);" Romrell

paragraph [0021])

7.      Regarding claims 5, 33, Romrell teaches; wherein said storing step comprises

storing said item of multimedia content in its original form. ("Server-side cache memory

may be used to store both original and transcoded versions of content" Romrell

paragraph [0019])

8.      Regarding claims 6, 34, Romrell teaches; wherein said storing step comprises

storing said item of multimedia content such that said content may be partly or wholly

reconstituted. ("the interface further provides the user with the ability to choose when to

continue the deferred download" Romrell paragraph [0054])

9.      Regarding claims 7, 35, Romrell teaches; and further comprising receiving said

original content ID from a provider of said content. ("Remote proxy 36 could also return

the header retrieved from the server device . . . this header could also include a

checksum" Romrell paragraph [0055])

10.     Regarding claims 8, 36, Romrell teaches; and further comprising generating said

original content ID by applying either of a predefined hashing method and a predefined

fingerprinting method to said content and using either of the resulting hash and

fingerprint as said original content ID. ("Remote proxy 36 could also return the header

retrieved from the server device . . . this header could also include a checksum" Romrell

paragraph [0055])

11.     Regarding claims 9, 37, Romrell teaches; and further comprising associating said

original content ID with different transcoded versions of said content. ("unlike most

cache memories, server-side cache interface 28 and server-side cache memory 30

enable maintenance of multiple representations of a given cached object" Romrell

paragraph [0031])

12.     Regarding claims 10, 38, Romrell teaches; and further comprising sending a

notification to said first multimedia device indicating that said content is available for

download to said multimedia device. ("otherwise, remote proxy 36 will begin the re-

transmission from the beginning of the data object" Romrell paragraph [0056],

Transmitting the data object is a notification.)

13.     Regarding claims 11, 39, Romrell teaches; and further comprising delivering said

firstly transcoded content to said first multimedia device. ("otherwise, remote proxy 36

would only return the remaining portion of the data. Remote proxy 36 could also return

the header retrieved from the server device . . . this header could also include a

checksum" Romrell paragraph [0055])

14.     Regarding claims 12, 40, Romrell teaches; and further comprising delivering said

firstly transcoded content to said first multimedia device together with any of said

content IDs. ("otherwise, remote proxy 36 would only return the remaining portion of the

data. Remote proxy 36 could also return the header retrieved from the server device . . .

this header could also include a checksum" Romrell paragraph [0055])

15.     Claims 22-25, 50-57 are rejected under 35 U.S.C. 102(b) as being anticipated by

Jones et al. (U.S. 6,697,944).

16.     With respect to claims 22, 50, Jones teaches; A method for implementing digital

rights management (DRM), the method comprising:

determining the DRM capabilities of a multimedia device; ("based on the analysis of the

device response, the host determines that the portable device will protect unencrypted

digital content" Jones column 15 lines 1-3)

determining the DRM rights associated with an item of content; ("if the host determines

that the portable device may not be trusted . . . the host will transmit only non DRM

digital content files before ending the process" Jones column 15 lines 23-26)

determining an optimal level of DRM protection to apply to said content as a function of

said capabilities and said rights; and ("based on the analysis of the device response, the

host determines that the portable device will protect unencrypted digital content . . . the

host will then transmit the unencrypted digital file" Jones column 15 lines 1-5)

applying said optimal level of DRM protection to said item of content. (Jones column 15

lines 1-5)

17.    With respect to claim 54, Jones teaches; A method for implementing digital rights

management (DRM), the method comprising:

a multimedia device; (Jones column 15 lines 1-3)

An item of content; and a DRM server operative to: (Jones column 15 lines 23-26)

determine the DRM capabilities of a multimedia device; ("based on the analysis of the

device response, the host determines that the portable device will protect unencrypted

digital content" Jones column 15 lines 1-3)

determine the DRM rights associated with an item of content; ("if the host determines

that the portable device may not be trusted . . . the host will transmit only non DRM

digital content files before ending the process" Jones column 15 lines 23-26)

determine an optimal level of DRM protection to apply to said content as a function of

said capabilities and said rights; and ("based on the analysis of the device response, the

host determines that the portable device will protect unencrypted digital content . . . the

host will then transmit the unencrypted digital file" Jones column 15 lines 1-5)

apply said optimal level of DRM protection to said item of content. (Jones column 15

lines 1-5)

18.     Regarding claims 23, 51, 55, Jones teaches; wherein said determining an

optimal level step comprises determining said optimal level as the highest-ranked level

of DRM protection that is both supported by said device (Jones column 15 lines 1-5)

and that is indicated by said content rights. (Jones column 15 lines 23-26)

19.     Regarding claims 24, 52, 56, Jones teaches; wherein said determining an

optimal level step comprises determining said optimal level as the highest-ranked level

of DRM protection that is supported by said device. (Jones column 15 lines 1-5)

20.     Regarding claims 25, 53, 57, Jones teaches; wherein said determining an

optimal level step comprises determining said optimal level as the highest-ranked level

of DRM protection that is that is indicated by said content rights and that is below the

highest-ranked level of DRM protection that is that is supported by said device. (Jones

column 15 lines 23-26)


### Claim Rejections - 35 USC § 103

21.     The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

22.    Claims 2, 30, are rejected under 35 U.S.C. 103(a) as being unpatentable over Romrell, further in view of Balani (U.S. 2003/0007464)

23.    Regarding claims 2, 30, Romrell does not teach; wherein said storing step comprises storing said item of multimedia content at a multimedia message center (MMSC). Balani teaches such lacking elements; "the media server 1808 uses standard streaming technologies accepted on the internet such as MMS over TCP/IP" (Balani paragraph [0184]). A person of ordinary skill would have included MMS capabilities in the server of Romrell by including the protocols necessary to send MMS messages. It would have been obvious at the time the invention was made to a person of ordinary skill in the art to include MMS functionality in the system of Romrell in order to allow users to receive MMS messages.

24.    Claims 13-21, 41-49, are rejected under 35 U.S.C. 103(a) as being unpatentable over Romrell, further in view of Kobata.

25.    Regarding claims 13, 41, Romrell teaches; and further comprising:

g) receiving said firstly transcoded content; and

h) regenerating said content ID of said firstly transcoded content. ("Remote proxy 36 could also return the header retrieved from the server device . . . this header could also include a checksum for the data stream which local proxy 48 may use to ensure no errors were introduced during the recovery process." Romrell paragraph [0055])

Romrell does not teach; from said first multimedia device. Kobata teaches such a

limitation; "a system 100 permits a sender 105 to transmit a digital asset to a recipient

110 using an intermediate server 115" (Kobata paragraph [104]). A person of ordinary

skill would have used the uploading scheme of Kobata with the proxy system of Romrell

by allowing users of the system to send files as well as request them. It would have

been obvious at the time the invention was made to a person of ordinary skill in the art

to include the uploading scheme in the system of Romrell in order to allow for the

"control of digital rights in the content after delivery." (Kobata paragraph [0010])

26.    Regarding claims 14, 42, Romrell teaches; wherein said regenerating step

comprises regenerating said content ID of said firstly transcoded content using the

same method used to generate said content ID of said firstly transcoded content.

("Remote proxy 36 could also return the header retrieved from the server device . . . this

header could also include a checksum for the data stream which local proxy 48 may use

to ensure no errors were introduced during the recovery process." Romrell paragraph

[0055])

27.    Regarding claims 15, 43, Romrell teaches; and further comprising performing

steps e) - h) (Romrell paragraph [0055])  in response to receiving instructions from said

first multimedia device to forward said content to said second multimedia device.

(Kobata paragraph [104])

28.    Regarding claims 16, 44, Kobata teaches; wherein said performing step

comprises performing where said instructions include any of a copy of said firstly

transcoded content and any of said content IDs. ("an encryption/decryption module 210

at the server 115 receives the digital asset" Kobata paragraph [0106])

29.     Regarding claims 17,45, Romrell does not teach; and further comprising
protecting any of said transcoded content with a content protection key (CPK). Kobata
teaches such a limitation; "the digital asset may be stored in an encrypted format. . .
decrypting the digital asset may include retrieving a key from the intermediate server"
(Kobata paragraph [0035]). A person of ordinary skill would have used the uploading
scheme of Kobata with the proxy system of Romrell by allowing users of the system to
send files as well as request them. It would have been obvious at the time the invention
was made to a person of ordinary skill in the art to include the uploading scheme in the
system of Romrell in order to allow for the "control of digital rights in the content after
delivery." (Kobata paragraph [0010])

30.     Regarding claims 18, 46, Romrell does not teach; and further comprising:
identifying any rights associated with providing said content to any of said multimedia
devices; ("Furthermore, depending on the digital rights defined for a particular copy or
form of digital content 320, the end-user may be able to forward the digital content"
Kobata paragraph [0124])
generating at least one entitlement as a function of said rights; and ("Furthermore,
depending on the digital rights defined for a particular copy or form of digital content
320, the end-user may be able to forward the digital content" Kobata paragraph [0124])
providing said content to any of said multimedia devices in accordance with said
entitlement. ("Furthermore, depending on the digital rights defined for a particular copy
or form of digital content 320, the end-user may be able to forward the digital content"
Kobata paragraph [0124]). Kobata as seen above teaches these limitations. A person of

ordinary skill would have used the copy protection scheme of Kobata with the proxy

system of Romrell by allowing users of the system to send files only if such rights were

allowed. It would have been obvious at the time the invention was made to a person of

ordinary skill in the art to include the copy protection scheme in the system of Romrell in

order to allow for the "control of digital rights in the content after delivery." (Kobata

paragraph [0010])

31.     Regarding claims 19, 47, Romrell does not teach; and further comprising:

determining if said copy of said firstly transcoded content is protected; ("Furthermore,

depending on the digital rights defined for a particular copy or form of digital content

320, the end-user may be able to forward the digital content" Kobata paragraph [0124])

if said copy is protected, determining if said content may be forwarded to said second

multimedia device as indicated by any rights associated with either of said content and

the recipient of said firstly transcoded content; and ("Furthermore, depending on the

digital rights defined for a particular copy or form of digital content 320, the end-user

may be able to forward the digital content" Kobata paragraph [0124])

if said content may be forwarded, protecting and forwarding ("digital content forwarded

using "super-distribution" may have associated digital rights that are the same or more

restricted than the digital rights associated with the digital content prior to forwarding"

Kobata paragraph [0124]) said secondly transcoded content to said second multimedia

device. Kobata as seen above teaches these limitations. A person of ordinary skill

would have used the copy protection scheme of Kobata with the proxy system of

Romrell by allowing users of the system to send files only if such rights were allowed. It

would have been obvious at the time the invention was made to a person of ordinary

skill in the art to include the copy protection scheme in the system of Romrell in order to

allow for the "control of digital rights in the content after delivery." (Kobata paragraph

[0010])

32.     Regarding claims 20, 48, the combination discussed in claim 19 teaches; and

further comprising protecting said secondly transcoded content with a content protection

key (CPK) associated with said secondly transcoded content. ("the digital asset may be

stored in an encrypted format. . . decrypting the digital asset may include retrieving a

key from the intermediate server" Kobata paragraph [0035])

33.     Regarding claims 21, 49, the combination discussed in claim 19 teaches;

wherein said first determining step comprises determining that said copy of said firstly

transcoded content is protected ("the rights information is sent in the form of an XML-

document that includes description of the content of the digital asset, a rights section . .

." Kobata paragraph [0107]). The combination does not explicitly discuss; by identifying

a CPK stored in association with the content ID. It would have been obvious to

determine if content was protected by searching for an associated decryption key, since

a decryption key would also be an indicator that the content is protected. A person of

ordinary skill in the art would have done this by checking a relational file list for a

decryption key associated with the content since it would be indicative of whether the

content was protected or not. It would have been obvious at the time the invention was

made to a person of ordinary skill in the art to search for a decryption key in order to

determine if content is protected since it would allow the server to determine what actions may be taken with the content.

34.     Claims 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans et al. (U.S. 2003/0172121), in view of Kobata et al. (U.S. 2002/0077986) and Romrell (U.S. 2001/0002900).

35.     With respect to claim 26, Evans teaches; A multimedia content distribution system comprising: an MMS server; ("the message gateway includes a Short Messaging Service Server" Evans paragraph [0022])

an MMS relay; ("a multimedia message processing system 200 using a multimedia client proxy ("MMCP")" Evans paragraph [0022])

a transcoder; and ("The media converter transcodes one or more parts of the multimedia message" Evans paragraph [0007]).

Evans does not teach a; a DRM server. Kobata teaches such a limitation; "Fig. 3 shows a computer device 310 in communication with a server-based global rights manager unit" (Kobata paragraph [0116]). A person of ordinary skill would have included the DRM process of Kobata by including it in the MMCP module of Evans allowing it to monitor digital content transferred through the system. It would have been obvious at the time the invention was made to a person of ordinary skill in the art to include the DRM system in the invention of Evans in order to "permit dynamic control and management of digital assets" (Evans paragraph [0011]).

The combination discussed above does not teach;

wherein said MMS server, MMS relay, transcoder, and DRM server are individually or

cooperatively operative to:

store an item of a multimedia content; ("Server-side cache memory may be used to

store both original and transcoded versions of content" Romrell paragraph [0019]) firstly

transcode said content for playback on a first multimedia device; ("parser 22 may

selectively invoke one of transcode service providers 24 based upon satisfaction of a

predetermined selection criterion." Romrell paragraph [0045])

generate a content ID of said firstly transcoded content; ("local proxy 48 may perform,

for example a CRC or other checksum-type process" Romrell paragraph [0056],

alternatively "CreateEntry(URL, &entry, . . .);" Romrell paragraph [0021])

store said content ID of said firstly transcoded content in association with said stored

content; ("Remote proxy 36 could also return the header retrieved from sever device 8 .

. . this header could also include a checksum for the data stream" Romrell paragraph

[0055], alternatively "CreateEntry(URL, &entry, . . .);" Romrell paragraph [0021])

access said stored content using said content ID of said firstly transcoded content; and

("local proxy may perform, a CRC or other checksum-type process on the portion of the

data object it received. It may then transmit the result to the remote proxy . . . Remote

proxy may then re-retrieve the data object" Romrell paragraph [0056], alternatively

"GetEntry(URL, &Entry);" Romrell paragraph [0022])

secondly transcode said stored content for playback on a second multimedia device.

("parser 22 may selectively invoke one of transcode service providers 24 based upon

satisfaction of a predetermined selection criterion." Romrell paragraph [0045]). Romrell,

as seen, teaches such elements. A person of ordinary skill would have combined the

proxy system of Romrell with the combination discussed above by putting remote

proxies on the sending and receiving devices, as well as making the MMCP compatible

with the functions of a remote proxy. It would have been obvious at the time the

invention was made to a person of ordinary skill in the art to include the proxy system of

Romrell into the combination as discussed above in order to "recover from []

communication disruption during the transmission of a data stream".

36.     Regarding claim 27, the combination discussed in claim 26 does not teach;

wherein any of said MMS server, MMS relay, transcoder, and DRM server are

individually or cooperatively operative to track to whom said content is sent and with

what rights. Kobata, however, includes the lacking element; "The server may maintain a

"virtual database" of digital assets and may use the database in implementing functions

such as data mining, tracking, and monitoring of rights consumption" (Kobata paragraph

[0018]). A person of ordinary skill would have included the tracking process of Kobata

by including it in the MMCP module of Evans allowing it to monitor digital content

transferred through the system. It would have been obvious at the time the invention

was made to a person of ordinary skill in the art to include the tracking element of

Kobata in the combination discussed in claim 26 in order to allow "determine the most

profitable pricing structure" (Kobata paragraph [0020]).

37.     Regarding claim 28, The combination discussed in claim 26 teaches; wherein

said DRM server acts as either of a probe and a proxy between (A person of ordinary

skill would have included the DRM process of Kobata by including it in the MMCP

module of Evans allowing it to monitor digital content transferred through the system.)

any of said MMS server, ("the message gateway includes a Short Messaging Service

Server" Evans paragraph [0022]) said MMS relay, ("a multimedia message processing

system 200 using a multimedia client proxy ("MMCP")" Evans paragraph [0022]) and

said transcoder. ("The media converter transcodes one or more parts of the multimedi

message" Evans paragraph [0007]).

### *Conclusion*

38.     The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

    a.     Sull et al. (U.S. 2002/0069218) discloses a multimedia system.

    b.     Messerges et al. (U.S. 2002/0157002) discloses a digital content

management system.

    c.     Stone (U.S. 2004/0162785) discloses digital copy protection levels.

    d.     DeMello et al. (U.S. 6,891,953) Enhanced software features with a

persona.

    e.     Wee et al. (U.S. 2005/0183118) discloses a data decoding device.

    f.     Cofta et al. (U.S. 7,162,525) discloses a trust network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Chao whose telephone number is (571)270-5657. The examiner can normally be reached on 8-4 Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571)272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. C./
Examiner, Art Unit 2442

/Andrew  Caldwell/
Supervisory Patent Examiner, Art Unit 2442